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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of FREDRIC GOLDSTEIN **Docket no.: N898 (amended)**

Serial No.: 09/340,303 **Examiner: KIM, EUGENE LEE**

Filing Date: 06/28/99 **Art Unit: 3721**

Title: RIBBON CURLING AND SHREDDING DEVICE

Commissioner of Patents and Trademarks, Washington, DC 20231

INFORMATION DISCLOSURE STATEMENT

- - SUPPLEMENT TO THE IDS SUBMITTED ON APRIL 15, 2003 - -

REMARKS

Applicant discloses the following three additional patents brought to his attention during the litigation of the aforementioned lawsuit Group One Ltd v Hallmark Cards, Inc. Applicant discloses these patents with the same reasoning as articulated in the initial IDS of April 15, 2003, that is, as a prudent exercise of the duty of candor required of patent applicants. Applicant had not included these three patents in the first IDS as they had not been brought to his attention at the time of that disclosure. Applicant believes these three patents are no more material than those already cited and considered by the PTO in the prior continuation applications, from which five patents issued, nor more material than those prior art patents now before the Examiner in the instant application, including the aforementioned IDS from April 15, 2003, for the reasons as stated below:

The Christensen Patent (3,464, 601)

This patent covers a method and machine for making a conventional star bow by looping straight ribbon. It does not involve curled ribbon or the process of curling ribbon nor the handling of long strands of unwieldy static charged curled ribbon. In this patent, air is used for looping and rotating the bow, and a blast of high velocity air positioned directly behind the completed bow ejects or delivers the bow into a cardboard shipping box for the purposes of transport.[1] The air does not serve as a stripping means to separate and prevent curled ribbon from wrapping around a drive means.

The Frye Patent (4,410,315)

This patent for trim removal does not deal with curled ribbon. It employs low velocity air to effect bunching and advancing of trim along a traveling web. Air nozzles are used to facilitate the folding of the trim by impinging air on both sides of the trim and to advance the trim along its course to a transporting means. The invention does not disclose an air stripping means to separate the web from the drive means in order to prevent the trim from adhering to the drive means.

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[1] Notwithstanding the fact that Cambarloc Engineering is a US company which has been foremost in practicing the teachings of Christensen for decades, the president Howard Edwards failed to add an air blower stripping means in the 1993 Goldstein prototype machine in spite of months of ribbon adhesion adversely affecting the operation of the machine. Only when Mr. Goldstein arrived in February 1994 and directed Mr. Edwards to add the blower was the problem solved. This incontrovertible evidence establishes that the Christensen patent does not teach the use of an air blower to prevent curled ribbon from jamming a drive means. Had the motive to combine been present, Mr. Edwards would have undoubtedly added a stripping means, such as an air blower, at the first indication of adhesion and jamming of the drive means. He did not, thus proving that the foremost practitioner of the Christensen patent did not find the combination "obvious" and that it was not known or understood by a man of ordinary skill in the art in the industry.

The Holt Patent (1,185,600)

This patent is nearly 100 years old. This patent addresses the problem of straightening paper and thus the finished product would be straight paper. It teaches away from handling curled paper. A straight web material is hardly likely to adhere to drive means and circle back as the nature of its straight form works against such a problem. The nature of the problem to be solved defines the fields of search and prior art to be considered. Here the problem is to remove the tendency of paper to curl so as to allow for flat stacking of the finished cut paper. By having as its goal the avoidance of a curled web, it does not address the problem in the instant application of rapid mass production of curled ribbon and the handling thereof. Applicant sees no reference or teaching of any sort of stripping means either separate or inherent in any of the disclosed structures.

This patent is no more material that the Akira patent (4,952, 281) which has been before the PTO for nearly a decade (as cited in the parent patent of this application).

It is well-settled in Federal Circuit jurisprudence that:

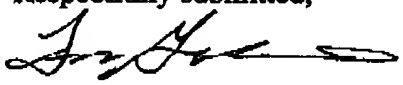
> When no prior art other than that which was considered by the PTO examiner is relied on by the attacker. . . , he has the added burden of overcoming the deference that is due to a qualified government agency presumed to have properly done its job, which includes one or more examiners who are assumed to have some expertise in interpreting the references and to be familiar from their work with the level of skill in the art and whose duty it is to issue only valid patents. In some cases a PTO board of appeals may have approved the issuance of the patent.

American Hoist & Derrick Co. v. Sowa & Sons, Inc., 725 F.2d 1350, 1359 (Fed. Cir. 1984), *cert. denied*, 469 U.S. 821 (1984). *See also McGinley v. Franklin Sports, Inc.* 262 F.3d 1339 (Fed. Cir. 2001).

Applicant believes that the PTO has already correctly considered the field of searches related to this invention in each and every application, including the pending application '303, which have derived from the common specification and from which five patents have issued. The problem to be solved the by inventor in this instance is the mass production of curled ribbon which presents a variety of subsets of issues and difficulties to be addressed in order than rapid production may be achieved. By taking the solutions arrived at by the inventor and then applying them as a road map to finding new and additional fields of search in order to find patents with a structure or step to then be combined would be an impermissible form of hindsight.

Applicant believes that these three patents included herein are no more material, or less so, than those patents disclosed in the prior IDS and moreover are, like those patents, no more material, or less so, than the prior art currently before the Examiner after numerous prior searches by the USPTO, the PCT, and the European Patent Office (which in addition declined to add Class 226 as a field of search). However, Applicant files this supplemental IDS nevertheless without regard to its lack of materiality.

Respectfully submitted,



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